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Vol. 2 OF 3

The United States Senate

R2873

Report of Proceedings

Hearing held before

Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities

324-13

Thursday, March 25, 1976

Washington, D. C.

(Stenotype Tape and Waste turned over to the Committee for destruction)

WARD & PAUL
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TOP SECRET

COMMITTEE MEETING

- - -

Thursday, March 25, 1976

- - -

United States Senate,
Select Committee to Study Governmental
Operations with Respect to
Intelligence Activities,
Washington, D. C.

The Committee met, pursuant to notice, at 2:43 o'clock p.m., in Room S-407, the Capitol, the Honorable Frank Church (Chairman) presiding.

Present: Senators Church (presiding), Mondale, Huddleston, Hart of Michigan, Morgan, Hart of Colorado, Tower, Mathias, Baker and Schweiker.

Also present: William G. Miller, Staff Director; Frederick A. O. Scwharz, Jr., Chief Counsel; and Charles Kirbow, Elizabeth Culbreath, Michael Madican, Charles Lombard, William Bader, Ted Rolson, Burt Wides, Walter Ricks, Rick Inderfurth, John Bayly, David Aaron, Elliot Maxwell, Joseph Dennin, Margaret Carpenter, Martha Talley, Paul Wallach and Jim Johnston, Professional Staff Members.

PROCEEDINGS

The Chairman. We will soon have a quorum. Why don't we begin with the Recommendation No. 43 on page 77, having to do with academics.

My understanding is that this recommendation has been redrafted along the lines of the Committee's recommendations, and as it now stands it calls for the CIA academics and the institution to be informed, and for any student being recruited to be so informed.

There is a choice in the latter case in informing him before he is paid or informing him before he leaves the U.S. Will you explain that to me, please?

Mr. Aaron. In the course of our discussion about the recruitment of students off campuses, there were two categories of concern. One was for the integrity of the institutions themselves, and the second was, in turn, for the students that might be involved.

To take the second one first, the Committee received testimony that some foreign students recruited as agents for the CIA were brought into kind of a holding status at a certain point in which they were working for, if you will, CIA proprietaries or CIA front organizations where they might conduct some operational activity, provide some information, under the impression that they were not working for the CIA but for a company or, I think as one put it, I think, a group

of investors.

Concern was expressed by the Committee in considering this testimony that this might be rather severe for the student once he discovered the fact he had been working for the CIA, or should his government find that out, so that it was an element of coercion to hire somebody under, if you will, false pretenses.

That second proviso, then, in effect says that we may pitch and recruit a student as an agent, but you must, when you do that, when you really bring him into an operational relationship with the Agency, he should be so informed and not brought into this sort of --

The Chairman. Let's go off the record.

(Discussion off the record.)

The Chairman. The question that I have on this recommendation is why shouldn't the foreign student being recruited by the CIA be informed of his relationship with the CIA at the time that that relationship is established?

Why do you condition it upon payment or leaving the country?

Senator Huddleston. Well, I was going to say there are many, many initial contacts that do not advance maybe much further than that, and for the CIA to have to be exposed maybe on each of those might not be reasonable. What we have tried to do is to make the wittingness be known about the time that

they are to perform some service. Up to that time they are still maybe prospects, where they may not have been recruited.

The Chairman. Which do you think the Committee should adopt of these two options?

Mr. Aaron. Actually, one could use both of these. I think the point is that the danger to the student, if there is any, comes when he leaves the United States, either to return to his own country or perhaps someplace else, but the commitment or involvement which ought to be witting really needs to come when he starts being paid, when he becomes in fact, or has a real relationship with the Agency. You could really establish both standards, because it might well be that he could leave the country but not have yet been paid, and not really have a relationship that was anything more than kind of an association or an option, something of that character.

The Chairman. Well, what is the will of the Committee as to these two options?

Senator Huddleston. Well, this represents a distillation of what we have been proposing as Senator Mondale develops for us, I believe, and I would move that we adopt this report, and use both of these, an either/or.

The Chairman. Whichever comes first, huh, either before he is given payment of any kind or leaves the United States, whichever may occur first.

Would that be satisfactory to the Committee?

All right. Without objection, then, that will be the decision of the Committee.

What else do you have?

Mr. Aaron. We have two other recommendations.

Senator Hart of Colorado. Mr. Chairman, could I be recorded in opposition to this?

The Chairman. Yes, Senator Hart of Colorado is recorded as in opposition.

Mr. Madigan. Senator, there is a proxy in opposition as well.

The Chairman. Senator Baker wants to be recorded in opposition as well.

Senator Mathias. I would, I think Senator Goldwater had a very strong proxy that I read into the record on this subject at the last meeting.

Mr. Kirbow. Against restricting any use of academics.

Senator Mathias. I don't have a proxy with him today, but I feel his position ought to be noted.

The Chairman. Very well, then, with those particular reservations made part of the record, the Committee will approve the amended Recommendation No. 43.

We move then to Recommendation 45 on page 78.

Mr. Aaron. We attempted to redraft this along the lines as we were instructed, I believe.

As it came out, it would prohibit the subsidy of any

writing, publication, distribution within the United States or its territories, of any book, magazine, article and so forth. It has been pointed out that this formulation would prevent the writing of a book, even in a foreign language, within the United States, to be published abroad and distributed abroad, or any such materials from being published within the United States, even if they were distributed abroad.

Now, that may be too restrictive and go beyond what the Committee intended, and so therefore we wanted to raise this here, to get a better understanding of what we were attempting to accomplish.

As I understand it, what we were -- it was not clear, but it is possible that what the Committee had in mind was that any writing, publication for distribution in the United States would have been the appropriate formulation for this, and if that is correct, we can make a very easy fix.

Senator Morgan. Why wouldn't it?

The Chairman. Why wouldn't it accomplish it if we say that by statute the CIA should be prohibited from subsidizing the writing or production or distribution within the United States or its territories of any book, magazine, article, publication, film, or video or audio tape unless attributed to the CIA.

Wouldn't that take care of it?

Mr. Aaron. If that is what the Committee intends, that

would take care of it.

Senator Mondale. Publicly attributed.

Mr. Aaron. Publicly.

Senator Huddleston. That is getting at what really we are trying to do.

The Chairman. How about the balance of 45, "nor should the CIA be permitted to undertake any activity to accomplish indirectly such distribution within the United States or its territories.

Well, I think that follows and should be a part of it.

Very well.

Senator Mathias. Mr. Chairman, I wonder, while we are in this area, if you could refresh my recollection, whether "grantees" in No. 44 applies to both foreign and American grantees.

Mr. Bader. Yes, it would, Senator, under this language, because the Fulbright program or the -- such government-sponsored programs to include, too, include foreigners. As I understood it from the discussion of the Committee, the intent here was to ensure that public funds that were publicly devoted to a specific purpose were so spent and that was the issue that was involved here, was the appropriated funds for educational programs be kept to educational programs and not to be used operationally. But the language here would certainly include foreigners.

Mr. Maxwell. Bill, would this prohibit the use of any individual person who is sponsored by an educational or cultural program, although not fully funded by the Federal Government?

Senator Tower. This is a question I wanted to ask.

Could one of our networks pick up a portion of a film broadcast abroad by the CIA and run it as part of a documentary to show what they are doing and that kind of thing?

The Chairman. I think the way it has been modified that is not a problem. This says "by statute the CIA should be prohibited from subsidizing writings," or production.

Senator Tower. That is what I mean, you are not precluded from showing it, but it should not be done under CIA auspices or government auspices.

The Chairman. And it should not be written for the purpose of being shown in this country.

Senator Tower. Yes.

Mr. Aaron. Nor under the indirect clause, I think, nor should the CIA go to CBS and say "we've got this wonderful film."

The Chairman. Using a network for the purpose of bringing it back. That would be an indirect way, and that would be wrong also.

Senator Tower. I understand, yes.

The Chairman. Well, then, if everybody understands the

way we have recommended the change in 45, without objection the Committee approves it.

Let us go, then, to the next subject, the structural changes, the role of the DCI on page 61.

Mr. Aaron. I'm sorry, Mr. Chairman. We have one other question, that would be Recommendation 47. The Committee agreed to extend --

Mr. Kirbow. Excuse me, Mr. Aaron. Senator Mathias's question was on recommendation 44.

The Chairman. Were you satisfied with the answer?

Senator Mathias. Well, the question that was left floating was what about a student who is in a program which is primarily funded by some private institution, although there may be some small element --

Mr. Maxwell. For instance, any major university that sponsored an individual coming under 44, which receives Federal Government funds, might be barred under a broad reading of 44, and it might be helpful to make that intent clearer in 44, if that is a concern of the Committee.

Mr. Aaron. I think this goes to the grantee as opposed to the institution.

Now, if it is true --

The Chairman. It is the grantee that is receiving funds.

Mr. Aaron. If you have a grantee receiving funds from

more than one source, then he receives them frcm more than one source, but if he is a grantee of a Federal program --

Mr. Maxwell. But the problem is receiving funds through educational and/or cultural programs.

For instance, if he were totally funded by the University of Maryland, which received financial support from the United States Government, arguably he is covered by that. It is not that he is receiving Federal grants. I think that is the intention.

Mr. Aaron. It should be U.S. Government educational --

Mr. Bader. Would that help?

The Chairman. Through educational and/or cultural programs sponsored by the United States Government. Wouldn't that take care of it?

Senator Huddleston. Well, grantees who are receiving directly from the United States Government or through educational or cultural programs supported by the United States Government.

The Chairman. Sponsored by.

Senator Huddleston. Well, in other words, whether he is getting them directly himself as a grantee, or whether he is receiving them from an educational program that is itself supported by the Federal Government.

Senator Mathias. I don't want to prolong this, but what about a program which is really directed right at this area which has been referred to, the armed services military

educational operate?

Mr. Bader. I'm sorry, sir?

Mr. Aaron. Well, let me see if I understand the different examples. The student leader grant or the political leader grant that the State Department has where they bring foreigners to the United States for a period of time, presumably to acquaint them with the country and what have you, under this language those people while on the grant would be immune from being recruited by the CIA. This doesn't mean that they couldn't recruit them at some other point in their careers, but that during the period of that grant they would not be in effect brought here and used for that purpose. That is, I think, part of the intent of this particular provision.

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Senator Mathias. Let me give you another example. Say you have an Iranian naval officer who comes over here to Fort McNair.

Is he fair game?

Mr. Miller. That is not educational or cultural. It would be military.

Senator Huddleston. I believe if he were going through the War College --

Senator Tower. If he were going through the National War College, how do you classify that?

Senator Mathias. He could come to the industrial base or civilian --

Mr. Kirbow. He could go to the Industrial College or the War College.

Senator Schweiker. Can you exclude military training?

Senator Mathias. I don't know. I don't know what you want.

Senator Huddleston. We are training a lot of them or we entertain a lot of them.

Senator Schweiker. It seems to me you have to put some proviso about military training in there.

The Chairman. Well, it depends upon what the policy should be. I had thought the attempt here was to immunize any foreigner who comes here on a program sponsored by the Government of the United States and receives a grant for that program, to immunize him during that period from being recruited by the CIA.

Senator Schweiker. Well, if he is here for military purposes, then we know it is a military relationship, I would think that is suspect.

The Chairman. Would you want him subject to recruitment?

Senator Schweiker. Well, if he comes over here militarily, you are so close to him, what is the difference?

Mr. Aaron. Well, I think the point of the prohibition really is this, that these programs are created for one particular purpose. They are considered by the Congress for that particular purpose and the funds are voted for that

particular purpose. If the programs are then used for another purpose by the Government, that was considered and suggested that that second purpose should not be used.

Now, if you want to exempt certain categories here and say, well, the military is a different thing, you can do that. You can find a way to express that.

The Chairman. Well, it could be done. If you want to recruit foreign military officers, we can bring them over to put them through the War College.

Mr. Miller. What other training?

Senator Huddleston. Well, we have a steady stream at Fort Knox, Kentucky of military people. I don't know what kind of training. Most of them are, of course, are from friendly nations to start with.

I don't know, you know, military. Once a person puts on a uniform, he becomes fair game in a number of ways. He gives up a lot of protections that civilians have.

Senator Schweiker. You allow him to recruit -- under other policies here we allow them to recruit foreign military officers because I think that's an even more valid relationship than the students, but I make it clear that what we don't want to do, which is to abort our honest to goodness cultural exchange and other programs.

The Chairman. This could be done by saying "By statute the CIA should be prohibited from using operationally grantees

programs is much clearer.

TOP SECRET

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Senator Schweiker. Can we talk about Defense and military training programs at the same time? It seems to me that's the criteria, bringing a guy over here and educating him on defense and military must be to the advantage of our military, so you know what the relationship is to begin with. You are not unwittingly using the guy. You are pretty witting.

If the guy goes to the American War College, he is pretty fair game.

The Chairman. You can write an exception for the American War College and all of the military and civilian personnel receiving training under the auspices of the United States armed services who are fair game.

(General laughter.)

Senator Huddleston. Except I agree with Dave, that is a little awkward to zero in on this particular group. Couldn't we find some way --

Mr. Kirbow. Mr. Chairman, I think it is not intended this apply only to foreign students coming this way, you include all American students going in the other direction, or under any other grant.

Mr. Aaron. The intention of the provision initially, as a matter of fact, its primary effect was for American students traveling abroad.

Senator Tower. Well, I see no problem with that. I know I don't have the votes here, but --

The Chairman. Which part do you have?

Senator Tower. Well, not being able to use American students abroad on some grant to gather intelligence, when most of the people the damned Soviets send over here on these cultural exchanges are really clued into the government program, indoctrinated and briefed thoroughly before they get here. I am not going to tie our hands like that. The rest of you can, but I'm not going to.

I will write a vigorous dissent on that.

Senator Morgan. May I make a comment on that?

I'm inclined to agree, and I'm also inclined to agree that we are going so far in our foreign intelligence that we are endangering the whole report, so you make that kind of an argument on the floor of the Senate on this and on two or three other things. I'm not picking at any of them. I am just sort of accepting the recommendations of the Subcommittee, but my reaction has been that maybe we are getting a little bit so far afield that we may endanger the acceptance of our whole report.

The Chairman. Senator Huddleston?

Senator Huddleston. I would just say this, that the Subcommittee has been cognizant of that situation. I think it is because of that that some of these recommendations are already softer than some of us thought would be appropriate, and this is one of the fields. There was a considerable amount of support

of the idea that academics be off limits, period, and students in order to protect the integrity of our entire academic community, and it is the realization that if we continued to close the possibilities for recruitment, and the adverse effect that that would have, maybe, on our ability to gather intelligence, that some of us backed off of this, what would be the optimum, we think, position to take. So this already represents somewhat of a retreat from the principle that some would like to see established, and in this case I think we are again faced with the question of whether or not we want a government-sponsored program to enjoy a high level of integrity so that the people who are participating in it and the American taxpayer who is supporting it can have some confidence that it is doing what it was set out to do and what the publicly announced purposes of it are.

And if we don't do that, if we permit it to be used as an operational intelligence operation, then it seems to me like we ought to announce that, that that ought to be one of the purposes so stated in the grant to start with, while we are likely to get an education, it is also likely if we can we will have you gather intelligence for us.

Senator Morgan. Well, Dee, I think you are getting off base for us. There is nothing that says they are required to do it.

Senator Huddleston. That is correct.

Senator Morgan. In other words, we are not going to condition this grant on --

Senator Huddleston. Well --

Senator Morgan. Let me finish out, now. What you are leading up to is you are saying we are going to condition this grant on your cooperation with other governmental agencies.

Senator Huddleston. I am saying that is not beyond the realm of possibility in some cases, if we don't put some prohibition.

Senator Morgan. Well, I think there may be times, especially in the light of what we heard in the past year, when, you know, we might make that assumption, but I don't think that on the whole when you are dealing with the United States Government that you can really assume --

Senator Hudddleston. But you can't assume he is not, either.

The Chairman. But what worries me is you get a student who in good faith goes abroad for the purpose of study and qualifies for a Government grant, and he depends upon that money and then he, when he gets over there and wants to complete his studies, he is approached, and he can be approached in such a way that he can be made to feel that if he does not throw in with the CIA and do this and that, he may find that the grant will be cut off or he can't complete the study as he intended. He feels a certain dependency upon the money that

he is receiving, and he has an expectation he wants to fulfill. And thus he is in a very vulnerable position when he is approached.

Senator Morgan. Well, that is a persuasive argument, but let me ask you, have we had any evidence that that sort of thing has happened?

The Chairman. Well, I don't know.

Senator Morgan. Well, it is a very persuasive argument, but I just wonder if we should, in the absence of abuse on that part, whether or not we should go this far.

The Chairman. What about it, Mr. Bader?

Mr. Bader. Mr. Chairman, I might say in partial response to Senator Tower's remarks that the Agency's basic instruction for the operational use of individuals, 50-10, specifically prohibits the operational use of Fulbright grantees. They have already made that decision in 1967, and reconfirmed in 1973. I assume part of that came from agitation at the time in '67 and Senator Fulbright's own determination that that program not be used for operational purposes.

It was the original intent of this language to extend that prohibition, which is now a matter of public record, this -- actually, that part of the instruction is in the public record now under the Freedom of Information Act, that part of 50-10 that talks about Fulbright grantees. It was the original intent of the recommendation that is now before you to extend

that prohibition on Fulbright grantees to all of those under the Fulbright-Hayes legislation. Under the specifics of the Agency's interpretation, it makes a distinction between those students, or graduate students, or professors selected by the Board of Foreign Scholarships, and the rest -- and the rest includes cultural leader grants and the like.

Now, perhaps it might be the sensible thing in the language like this to confine it to the Fulbright-Hayes Act, which is the basic legislation which deals with this.

Senator Schweiker. How many others would you have outside of that? Would you have a lot of other programs?

Mr. Bader. Other programs?

Senator Schweiker. What percent of the total picture is the Fulbright-Hayes Act?

Mr. Bader. I really wouldn't know, Senator. I think it is the major part of it, actually. You could have a National Endowment for the Humanities fellowship in which a person would go overseas, and this, under the language we now have before you, that would include those individuals.

The Chairman. Well, I can see how vulnerable a grantee might be when approached, and if we have already written into law a prohibition that relates to the Fulbright scholars, I should think it ought to apply to any others that are receiving educational or cultural grants from the United States.

Senator Tower. That is not a law, that is a regulation.

Mr. Aaron. And CIA's own regulation.

The Chairman. But then it was adopted as part of the law, I thought you said.

Mr. Bader. No, sir. I said it has been made public through the Freedom of Information Act. This is an internal directive of the Agency, and as the Senators know, those directives are certainly subject to change, so there really are, in effect, two basic parts of this recommendation. One was to commit the present internal prohibitions of the CIA to law, and then to extend it, and the issue before the Committee, in addition to whether there should be an extension, is sort of how far and what language should be used to portray or convey that prohibition?

Senator Baker. Mr. Chairman, do we have anything from the Agency on this?

Senator Huddleston. I think you've got to weigh, to some extent, the value of the two programs, of our cultural exchange programs' importance. I think the public knowledge of any one individual becomes known as a spy who is associated with a program, it has a devastating effect, in my judgment, on the program and on all students who are participating in it. I just think the risk is too great.

Senator Tower. Well, my question at that point would be to what extent does our cultural exchange program impact on

people behind the Iron Curtain, to convince them as people that we are nice folks, that they ought to influence their government to be a little bit more friendly toward us? It doesn't have any impact at all in a totalitarian state, none.

It is really a one way street.

Now, I am all for cultural exchange, simply because I like to watch Russian ballet dancers, especially females, but the fact of the matter is cultural change does more to soften up the American public toward the Iron Curtain than the other way around.

The Chairman. That is an argument as to the merits of cultural exchange, and how you view ballerinas, but the question here we face is whether or not we should put American students in a position where they feel they must --

Senator Tower. I don't think they must be coerced.

The Chairman. But there is an element of intimidation involved if they are receiving a grant from the government.

Senator Tower. Well, I would favor a specific prohibition against making that a condition of getting a grant or scholarship of some sort.

Senator Baker. Or continuing one.

Senator Tower. Or continuing one.

Senator Hart of Michigan. Well, John, what do you say to Dee's point? If my roommate turns out to be a spy, it is automatically assumed I am, and every guy in the outfit. What

does this do to the American that is over there, all of them? I don't think that is right.

Senator Tower. Well, I think in many instances American operations abroad that have been completely innocent have been labeled as spy operations for propaganda purposes by the other side, and they will do that if they choose to. They will not do it if they choose not to do it.

The Chairman. But you have many of these students who are not inside Russia or in a Communist country. We have educational and cultural programs in Third World countries and in the western world.

Senator Tower. I understand that.

The Chairman. And there, if someone is caught engaging in a CIA action of some kind, then everybody is contaminated. The whole thing then becomes suspect in France or England or wherever it might be.

Senator Tower. What if the grantee comes to CIA and says, I have made some contacts over here that I think would be of value in terms of passing intelligence along to you?

Are you going to turn him down and say, no, you are on a Fulbright grant, we can't let you do that?

Senator Huddleston. No, they could use his information to contact somebody else. He would not necessarily be operational.

Mr. Bader. Operational use, under the Agency's definition, has two major elements to it. First is that the purposes to

be accomplished, and objectives, are established by the Agency, and the second is that the individual involved is tasked to do that, ordered to do it, if you please.

Operational use does not, by the Agency's definition, involve individuals who would come to the Central Intelligence Agency to voluntarily give whatever information that they think would be of value to the Agency, the kind of information that the Contacts Division normally would like to have.

Senator Tower. Yes, but once having done that, the Agency determines this person is valuable and they observe this person and they put him under a control officer.

Mr. Bader. Then he would come under this condition. That would be operational use.

Senator Huddleston. It would not include a debriefing of him when he came back.

Mr. Kirbow. Nor could he be asked to go to a single meeting more and report back on the very same subject that he just reported on, which might be a critical target to the United States Governments' national security.

Mr. Bader. Once he is operational, he has to accomplish a particular task or purpose, then he is operationally used under the terms.

Senator Tower. Even if he initiates the contact with the Agency in the first place.

Mr. Bader. Only, Senator, if there is a second stage in

this, if the individual --

Senator Tower. I know. The second stage may be the most important.

Mr. Bader. It certainly may, and at that stage, under the Agency's definition, he would be operationally --

Senator Huddleston. I can't believe the Agency wouldn't have another entre of some sort.

Senator Tower. What kind of widespread abuse are we trying to prevent?

Has there been widespread abuse?

Mr. Bader. No, sir, there has not.

Senator Tower. There has not been.

Mr. Aaron. This occurs.

Mr. Bader. This occurs, yes.

Senator Hart of Michigan. What is the benefit -- there has been no abuse, but what benefit?

Senator Mondale. It's not -- that's not the word. It's not no abuse. It's not widespread.

Mr. Bader. The term is "not widespread."

Senator Tower. I said "widespread."

Mr. Bader. Yes, I said "widespread."

Senator Hart of Michigan. The question is, what benefits? Do we know?

Senator Huddleston. That is very difficult to ascertain.

Senator Tower. Significant abuse? Any record of abuse?

What record of abuse do we have?

Senator Hart of Michigan. Any record of significant benefit.

Mr. Bader. A record of significant abuse in the sense that Fulbright students or those under American educational programs have been used operationally. There is an extensive record over the years, but it is not of major importance to the Agency.

The Chairman. Well, apparently the Agency itself has restricted or has put the Fulbright scholars off limits, right?

Mr. Bader. That is correct, sir.

The Chairman. Well, then, --

Senator Hart of Michigan. That must be the result of a conclusion that either they were not beneficial or they didn't want to poison the program.

Why doesn't that reasoning apply to these others?

The Chairman. Well, I think it does, but we might as well come to a vote on it and decide whether we want to keep it or strike it.

Senator Huddleston. Well, to bring it to a vote, Mr. Chairman, I would move that Paragraph 44 --

Senator Baker. Mr. Chairman, I would just kind of make one inquiry, I believe, and I already know the answer to it, that even though we are voting on this section, I believe the

arrangement we had previously, that is to say, that none of this is final, and certainly not until we hear the comments of the Agency.

Is that still observed?

The Chairman. Yes, that is still the situation. Nothing becomes final until the final vote is taken, and anything can be reconsidered.

Senator Baker. Then we are going to have comments from the Agency. When, Bill, tomorrow?

Mr. Miller. Staff is going to get them tomorrow afternoon out there, and they are going to give it to us in writing, I think, tomorrow afternoon.

The Chairman. I suspect that the Agency will oppose many of these recommendations.

Senator Huddleston. No question about that.

The Chairman. I hope that won't be the single basis upon which we decide for or against.

Senator Huddleston. My motion includes, Mr. Chairman, that we exempt the military.

Senator Schweiker. You say it will include --

Senator Huddleston. That will be in my motion, in 44, that we exclude foreign military people.

The Chairman. All right.

The motion is made that Recommendation No. 44 be approved with the exception that it does not apply to foreign military

personnel coming into this country, is that right?

Senator Huddleston. Yes.

The Chairman. Let's have a vote.

Do you want to call the roll, Mr. Miller?

Mr. Miller. Yes.

Mr. Hart of Michigan.

Senator Hart of Michigan. Aye.

Mr. Miller. Mr. Mondale.

Senator Mondale. Aye.

Mr. Miller. Mr. Huddleston.

Senator Huddleston. Aye.

Mr. Miller. Mr. Morgan.

Senator Morgan. No.

Mr. Miller. Mr. Hart of Colorado?

Senator Hart of Colorado. Aye.

Mr. Miller. Mr. Baker.

Senator Baker. No.

Mr. Miller. Mr. Mathias?

Senator Tower. You missed Goldwater. You missed Senator Goldwater.

Goldwater no by written proxy.

Mr. Miller. Mr. Mathias is in the phone booth.

Mr. Schweiker.

Senator Schweiker. Aye.

Mr. Miller. Mr. Tower?

Senator Tower. No.

Mr. Miller. Mr. Church?

The Chairman. Aye.

Senator Tower. I don't think it is going to affect the outcome, so I ask consent that he be recorded.

Mr. Miller. The ayes have it. It is six to four. Mr. Mathias is still in the phone booth.

Senator Tower. I ask consent that he be allowed to be recorded. It might change the outcome.

The Chairman. All right.

Let's go to 61 next.

Mr. Aaron. The next issue is on page 78A, Recommendation 47.

The Committee previously agreed to extend the CIA prohibitions on the use of media to the use of any person who regularly contributes material to publications and those involved directly or indirectly in the editing or setting policy and direction in the direction of the activities of U.S. media organizations.

What was unclear was whether this was the recommendation of the Committee to the CIA that it amend its regulations to do that, or whether this was to be embodied in statute as had been recommended in Recommendation 46.

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The Chairman. I'm sorry, I have lost you.

Mr. Aaron. You will find the words "proposed statutory

CIA prohibition" and you see the words "proposed" and "statutory" are in brackets, reflecting uncertainty on our part as to whether it was the intention of the Committee that this prohibition simply be a CIA regulation or embodied in the statute, which is recommended in the recommendation of procedures.

The Chairman. Senator Huddleston, do you have any comment on this?

Senator Huddleston. I have a personal feeling that when we go too far statutorily in dealing with the press, that we sometimes get on thin ice. I don't know whether it would be appropriate to make some suggestion here that the press itself initiate certain standards and methods. Many of them in the press believe they ought to have anyhow.

I think the recommendation for the CIA is probably sufficient.

The Chairman. And let that be handled as a matter of CIA regulations.

Senator Huddleston. Rather than by statute.

The Chairman. Rather than by statute.

Is that acceptable to the Committee?

Senator Tower. I am sorry, Mr. Chairman. Would you repeat the proposition?

The Chairman. The proposition is that the Committee recommend that the CIA, by regulation, handle this matter rather than make it statutory.

Senator Tower. Well, I oppose it either by statute or by regulation, so I would suggest that those who favor the concept determine whether they want to do it by either statute or regulation. I am opposed to doing it by either.

Senator Schweiker. I would like to see it by statute if we are going to do it.

Senator Baker. Mr. Chairman, does this make any distinction between domestic media and -- on the media located physically within the United States and the U.S. media outside the United States?

The Chairman. No, it does not. It simply attempts to prevent the CIA from involving itself with personnel who are part of the U.S. media, whether here or abroad, as I read it.

Senator Tower. Okay, now, let me ask you a question.

What is there is a Reuters reporter in Moscow who is cooperating with us, and Reuters contributes regularly to U.S. media?

Senator Schweiker. We spent an hour on that. They are excluded. We argued that for an hour and I lost the point, so they would be excluded.

Senator Huddleston. This basically just extends to CIA's own prohibition that they had initiated against what we would normally think of as working journalists, and includes into it the executives and editors and those who may be freelancing.

Senator Tower. What if we got a freelancer for Time Magazine who is indeed a foreign national? Does he come under this prohibition?

Senator Huddleston. If he has some regular association with Time he would be.

Mr. Aaron. Under the Agency's current regulations and own prohibitions, a foreign journalist working for Time Magazine oversees would be prohibited from being used by them for operational purposes. That is their own position today. This would extend that prohibition to someone who is, what in the trade jargon is a stringer, or --

Senator Tower. This would include a stringer?

Senator Schweiker. It wouldn't cover Reuters or some other foreign news service.

Mr. Aaron. It would also apply to a foreigner who was, for example, if there were such a thing as an editor in the Paris Bureau of Time Magazine. I don't think they work that way, but say there were such a person, it would apply to him as well.

Senator Tower. What about the Paris Trib? What about that?

Mr. Aaron. A U.S. media organization.

Mr. Kirbow. It is excluded.

Senator Schweiker. That is a subsidiary of an American company.

Senator Tower. What about Reader's Digest Selecciones, which is their Spanish publication? Is that included?

Mr. Aaron. I assume so.

The Chairman. Well, according to the CIA's own restrictions, it is excluded now, except this would simply extend the exclusion to stringers, those who do not have regular employment.

Senator Huddleston. And editors and executives.

The Chairman. And editors and executives.

Mr. Bader. The present restriction, Senator Tower, that has been extended by the Agency in February, went to accredited journalists, accredited to U.S. media organizations. The only difference between this prohibition and the one already assumed by the Agency is that this moves further accreditation to include those who regularly contribute to U.S. media organizations or are a part of their structure.

Mr. Kirbow. The management structure.

Mr. Bader. The management structure, whether they contribute material to or are involved directly or indirectly in the preparation of material.

The Chairman. Well, I think if we are going to do it, we had better decide on the policy. If we want to keep the CIA out of U.S. media both at home and abroad, and we want to extend that to stringers as well, then I think it ought to be done by statute rather than just a recommendation by

the Committee that the CIA do it, because the CIA regulations may or may not issue, and they can be changed at any time without notice.

Senator Tower. Well, Mr. Chairman, aren't we talking about two different things?

I don't mean foreign, you know, our foreign correspondents abroad writing CIA propaganda for American publications. We are talking about operations here, operational use, not use to write some article that the CIA wants planted in an American publication. That's not what I'm talking about. I'm talking about using him to gather intelligence, and it goes back directly to the CIA which doesn't serve as a publication.

The Chairman. But operational use can include many things, including writing propaganda and usually would if it involved journalists.

Senator Tower. Well, I think we have already got a prohibition on that.

Mr. Bader. The prohibition that the Central Intelligence Agency has self-imposed extends across the line from cover to placement to all operational use of individuals, accredited individuals to American media organizations. As I say, the difference between what the Agency has already taken upon itself and what this recommendation involves is this recommendation extends it to individuals who are not accredited.

There are a number -- the figures that the Committee has

which have been authenticated by the Agency, that there are some 60 Americans who are affiliated or are part of American media organizations around the world, part of a larger network of some 400 journalists and the like who are part of the Agency's overall media asset program, and of those 60 under the Agency's present prohibitions, the ones recently imposed, it would go to just one third of those individuals.

This prohibition would extend it from the one third to all because the other two thirds include people that are under cover, who are in management, and who are not under the technical term accredited to U.S. media organizations.

Mr. Chairman, I might say if the Committee would look at the Recommendation 46 that goes before 47, perhaps it might bear in mind that the recommendation in 46, which takes the present Agency prohibitions and says that they should be established in law, if in 47, if the Committee should so decide to do it by recommendation, that they change their internal prohibitions, there will be a contrast between 46 and 47.

The Chairman. Well, let's have a vote. Let's go back to 46, and I take it that the recommendation is that this prohibition that the CIA has imposed upon itself ought to be written in statutory form.

Mr. Bader. That is the recommendation.

The Chairman. All right. Let's have a vote on that

first of all, and then we'll take up 47.

Mr. Miller, will you call the roll?

Senator Huddleston. Mr. Chairman, I think I am probably the only one that has suggested that it should not be statutory, and I would just point out that that might be a result of the fact that I am in the media, so I would withdraw that unless somebody else wants to make that recommendation.

The Chairman. I thought yours went to 47.

This is 46.

Senator Huddleston. It did, but they both relate to the media.

The Chairman. Well, let's take a vote on 46, which would recommend that Congress enact a statute conforming to the CIA's self-imposed prohibition on U.S. journalists or foreign journalists accredited to the U.S. media abroad.

Mr. Miller. Mr. Hart of Michigan.

Senator Hart of Michigan. Did you want a roll call?

The Chairman. Yes.

Senator Hart of Michigan. Aye.

Mr. Miller. Mr. Mondale.

Senator Mondale. Aye.

Mr. Miller. Mr. Huddleston?

Senator Huddleston. Aye.

Mr. Miller. Mr. Morgan.

Senator Morgan. Aye.

Mr. Miller. Mr. Hart of Colorado.

Senator Hart of Colorado. Aye.

Mr. Miller. Mr. Baker.

Senator Baker. Aye.

Mr. Miller. Mr. Goldwater.

Senator Tower. No by proxy.

Mr. Miller. Mr. Mathias.

(No response.)

Mr. Miller. Mr. Schweiker.

Senator Schweiker. Aye.

Mr. Miller. Mr. Tower.

Senator Tower. No.

Mr. Miller. Mr. Church..

The Chairman. Aye.

Senator Tower. Mr. Chairman, I ask unanimous consent that Senator Mathias be recorded. It will not be changed.

The Chairman. All right.

Now can we go to 47 and vote it up or down on the understanding that this recommendation having to do with stringers and the use of executives would not take statutory form but it would be a recommendation to the CIA without such regulation.

Ms. Culbreath. Mr. Chairman, could I say just a word, please sir, with regard to whether it was done by directive or regulation or by statute. Yesterday one of the general recommendations

that we discussed and the staff was asked to rewrite went to the question of any changes or waivers of Agency directives or recommendations, and as considered by the Committee yesterday. The agreement was -- and if that proposal is one of the general recommendations goes through any waiver of an existing regulation or any amendment of an existing regulation, that affected the significant policies or programs of the Agency, would have to go immediately to NSC and to the oversight committee so that they would know.

So what I am saying is that if you had a directive and there was a change in something like this which would be significant, there would have to be notice to the oversight committee and to the NSC.

The Chairman. Can we have a vote, then, on 47 before we go down to the Senate to this roll call.

Mr. Miller. Mr. Hart of Michigan.

Senator Hart of Michigan. Aye.

Mr. Miller. Mr. Mondale.

Senator Mondale. Aye.

Mr. Miller. Mr. Huddleston.

Senator Huddleston. Aye.

Mr. Miller. Mr. Morgan.

Senator Morgan. Aye.

Mr. Miller. Mr. Hart of Colorado.

Senator Hart of Colorado. Aye.

Mr. Miller. Mr. Baker.

Senator Baker. Aye.

Mr. Miller. Mr. Goldwater.

Senator Tower. No by proxy.

Mr. Miller. Mr. Mathias.

(No response.)

Mr. Miller. Mr. Schweiker.

Senator Schweiker. Aye.

Mr. Miller. Mr. Tower.

Senator Tower. No.

Mr.Miller. Mr. Church.

The Chairman. Aye.

Senator Tower. Mr. Chairman, I ask unanimous consent that Senator Mathias be allowed to vote.

The Chairman. That will be so ordered.

All right, let's take a short recess and come back.

(Whereupon, at 4:05 o'clock p.m. the Committee recessed to reconvene at 10:00 o'clock a.m., Friday, March 26, 1976.)

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